

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>v.</b>	)	<b>3:97-CR-054-D(1)</b>
	)	
<b>LEVI WOODERTS, JR.</b>	)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b) and an order of the District Court filed on February 7, 2007, Defendant Levi Wooderts' Writ Quo Warranto filed on February 6, 2007, has been referred to the undersigned Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

**FINDINGS AND CONCLUSIONS:**

Defendant's pleadings challenge the manner of execution of his sentence. He alleges the Bureau of Prisons (BOP) failed to consider and/or designate the state prison as a place of confinement for his federal sentence (Writ at ¶¶ 2 and 3). He further alleges that his federal sentence should have been run concurrent with the state sentence that was imposed following his parole revocation because his federal sentence was enhanced on the basis of his state parole. (Writ at ¶ 11).

The proper method for challenging the execution of a sentence is through a habeas corpus petition under 28 U.S.C. § 2241, brought in the district court where the prisoner is confined.<sup>1</sup> *See Braden v. 30th Judicial Cir. Ct. of Kentucky*, 410 U.S. 484, 494-95 (1973); *Jeffers v.*

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<sup>1</sup> Since Petitioner is confined at FCI Seagoville, this court has jurisdiction over a § 2241 petition.

*Chandler*, 253 F.3d 827, 830 (5th Cir. 2001); *see also United States v. Weathersby*, 958 F.2d 65, 66 (5th Cir. 1992) (a motion for jail time credit pursuant to 18 U.S.C. § 3585 may be cognizable as a habeas corpus petition pursuant to 28 U.S.C. § 2241).

#### RECOMMENDATION

For the foregoing reasons, it is recommended that Defendant's Writ Quo Warranto, filed on February 6, 2007, be CONSTRUED as a petition for writ of habeas corpus seeking relief pursuant to 28 U.S.C. § 2241.

It is further recommended that the Clerk of Court be directed to DOCKET Defendant's motion as a new habeas corpus petition pursuant to 28 U.S.C. § 2241, with a new civil docket number and re-style the case as *Levi Wooderts, Jr. v. United States of America*, No. 3:07-cv-\_\_\_\_\_, with Judge Sidney A. Fitzwater assigned as the presiding district judge. The Clerk should be directed to TERM the motion in the criminal case (Docket #613), and to REFER the new civil action to Magistrate Judge Wm. F. Sanderson, Jr. for further proceedings and/or findings and recommendation.

A copy of this recommendation will be mailed to Petitioner Levi Wooderts, Jr., BOP #29639-077, FCI Seagoville, P.O. Box 9000, Seagoville, Texas 75159-9000.

Signed this 9<sup>th</sup> day of February, 2007.



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WM. F. SANDERSON, JR.  
UNITED STATES MAGISTRATE JUDGE

#### NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir.

1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.